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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/700,455

11/05/2003

Alain Maupas

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22902 7590 12/21/2006  
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EXAMINER

GILBERT, WILLIAM V

ART UNIT

PAPER NUMBER

3635

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

12/21/2006

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/700,455	<b>Applicant(s)</b> MAUPAS, ALAIN	
	<b>Examiner</b> William V. Gilbert	<b>Art Unit</b> 3635	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 November 2003.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9,11,12,19 and 21 is/are rejected.
- 7) ☒ Claim(s) 8,10,13-18 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/5/03</u> . | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

This is a First Action on the Merits. Claims 1-21 are pending and examined as set forth below.

#### ***Information Disclosure Statement***

1. The information disclosure statement filed 05 November 2003, fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

#### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(b) because they are incomplete. 37 CFR 1.83(b) reads as follows:

When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should

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include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

In the present application, the drawings fail to show the complete invention as claimed (e.g. the panel with both top and bottom belts). Further, per Claim 20, the drawings fail to show each panel being made from two metal sheets made in the form of a box.

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***Specification***

3. The abstract of the disclosure is objected to because it exceeds 150 words. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claim 1** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claim 1, Applicant only claims a system. In line 14, Applicant seems to claim a wall in combination with the system, but never actually claims the wall. If Applicant intends to make a claim for a wall in combination with the system, then the Claim should be reworded to reflect such. No new matter may be added.

**Claim 5** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and

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distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 5, the phrase "and/or" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "and/or"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-7, 9, 11, 12 and 21** are rejected under 35 U.S.C. 102(b) as being anticipated by Kessler et al. (U.S. Patent No. 3,736,599).

Claim 1: Kessler discloses a system with assembly means (Figure 4, element 61) assembling two consecutive panels (Figure 4, element 3), a low belt (31) and a high belt (Figure 5, element 45), angle determining means (Figure 4, element 63), stiffening means (Figure 4, "T" shaped members attached to panels), the panels are planar (Figure 4), and the angle

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determining means (63) has two arms that form an angle relative to each other (see "A" and "B" from attached Figure 4 from Kessler, below.)

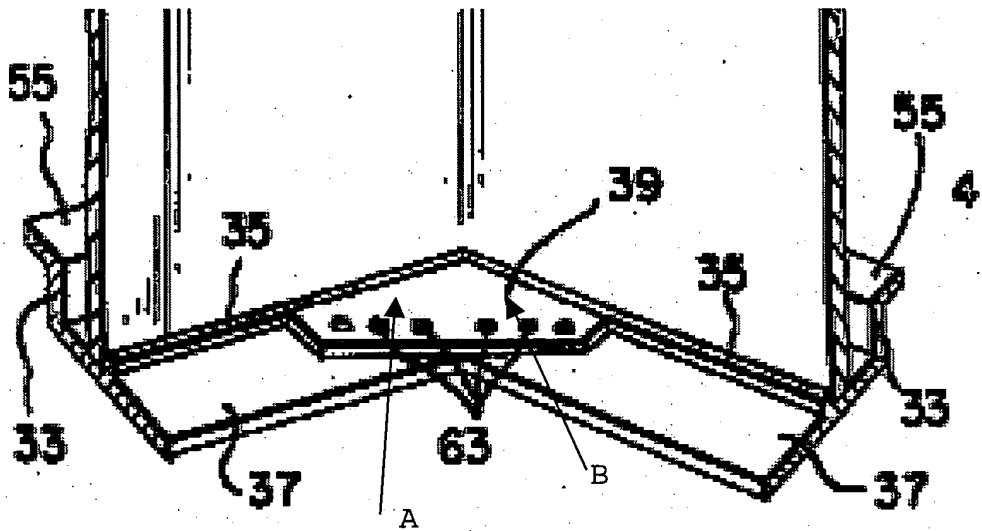


Figure 4 from Kessler

Claim 2: the panels (3) are identical.

Claim 3: the prior art has means for leveling the heights of two panels (Figure 5, element 47).

Claim 4: the low and high belts (31 and 45) are rigidly connected by a portion of the assembly means (Figure 5, element 61).

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Claim 5: the angle determined means (63) is situated in the low belt (31).

Claim 6: the low belt (31) is constructed of a plurality of section members (Figure 5, elements 33, 35, 37, 55) extending over the length of the panel (Figure 4, generally).

Claim 7: each section (33, 35, 37, 55) of the low belt (31) is rectilinear (Figure 5, generally) and forms a gutter (33, 35, 37) with a double wall (33, 35) extending along the longitudinal sides to define a slot.

Claim 9: the sections of the low belt are stiffened by a reinforcing means (53).

Claim 11: the high belt (45) is a set of strips (41, 43, area proximate 59) and a set of section members (interconnecting pieces) fixed to the strips, and each strip and section member extends at least the length of the panel (Figure 5).

Claim 12: each section member (interim areas interconnecting 41, 43, area proximate 59) and strip (41, 43, area proximate 59) is fixed by being engaged in the section member.

Claim 21: the prior art discloses a wall made by the system of Claim 1 (Figure 4).



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***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 19** is rejected under 35 U.S.C. 103(a) as being unpatentable over Kessler.

Claim 19: Kessler discloses the claimed invention including that each panel is formed from a metal sheet (Column 1, lines 34-37), but it does not disclose the thickness to be about 1.5 mm to 2 mm. It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of design choice to have these thicknesses because Applicant failed to state a criticality for the necessity of these thicknesses. Applicant shows further lack of criticality by stating that the thicknesses may be "about" these dimensions (line 2).

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***Allowable Subject Matter***

7. Claims 8, 10, 13-18 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 8: the prior art of record fails to disclose the angle determining means in two adjacent gutters.

Claim 10: the prior art of record does not disclose concrete cast into the low belt.

Claims 13-15: regarding Claim 13, the prior art of record does not disclose the angle determining means mounted in a gutter in the high belt. Claims 14 and 15 depend from Claim 13.

Claims 16-18: regarding Claim 16, the prior art of record does not disclose a first section member mounted between two adjacent flanges of two consecutive panels and a second section member fitted over the two adjacent flanges of the panels.

Claims 17 and 18 depend from Claim 16.

Claim 20: the prior art of record does not disclose each panel made in a box section made from two panels.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pitti et al.

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(U.S. Patent No. 3,793,651), Gershman (U.S. Patent No. 3,280,408), Diamond et al. (U.S. Patent No. 3,268,917), Maupas (U.S. Patent No. 5,896,715) and Adam et al. (U.S. Patent No. 3,440,780).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on 571.272.6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WVG *WVG*  
14 Dec 06



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